

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RANDY LAMONT MCKELLER,)
)
Petitioner,)
)
v.) No. 4:14CV329 JCH
)
MICHAEL BOWERSOX,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner was convicted of murder and armed criminal action, and the court sentence him to life without the possibility of parole and thirty years. Petitioner filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 in April 2011, which the Court denied on the merits on November 21, 2013. McKeller v. Bowersox, 4:11CV737 JCH (E.D. Mo.). This Court did not issue a certificate of appealability. Petitioner has filed a notice of appeal, which is pending. And he has filed a motion for certificate of appealability and motion for reconsideration, which are still pending as well.

Regardless, to the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the

United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's petition for writ of habeas corpus is **DISMISSED**.

Dated this 27th day of February, 2014.

/s/ Jean C. Hamilton
JEAN C. HAMILTON
UNITED STATES DISTRICT JUDGE